

LAW OFFICES  
JAMES M. CAPLINGER, CHARTERED  
823 S.W. 10<sup>TH</sup> AVE.  
TOPEKA, KS 66612-1618

JAMES M. CAPLINGER (1929 – 2015)  
JAMES M. CAPLINGER, JR.  
COLLEEN R. JAMISON

(785) 232-0495  
Fax (785) 232-0724  
[jrcaplinger@caplinger.net](mailto:jrcaplinger@caplinger.net)  
[colleen@caplinger.net](mailto:colleen@caplinger.net)

May 8, 2018

Lynn M. Retz, Secretary  
Kansas Corporation Commission  
1500 Arrowhead Rd  
Topeka, KS 66604

RE: Nex-Tech Wireless, L.L.C. updated traffic factor study  
Docket No. 18-GIMT-084-GIT

Dear Ms. Retz:

Attached for filing in the above-captioned docket, please find Nex-Tech Wireless, L.L.C.'s application to be allowed to use its updated traffic factor study, as filed with the FCC on April 30, 2018, in its KUSF assessment determination, to be effective July 1, 2018. Also please find the supporting affidavit of President and CEO Jon Lightle.

Pursuant to K.S.A. 66-1220a, the wireless traffic factors are claimed as confidential. This information is not publicly available and the disclosure of this information could give access to sensitive financial and operating information thus giving outside companies a competitive advantage.

Cordially yours,

  
Colleen R. Jamison

cc: Daron Jamison

**BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

In the Matter of the Investigation to	)	
Determine the Assessment Rate for the	)	
Twenty-Second Year of the Kansas	)	Docket No. 18-GIMT-084-GIT
Universal Service Fund, Effective	)	
March 1, 2018.	)	

**APPLICATION OF NEX-TECH WIRELESS, L.L.C. FOR APPROVAL OF USE OF  
TRAFFIC STUDIES FOR KANSAS UNIVERSAL SERVICE FUND REPORTING**

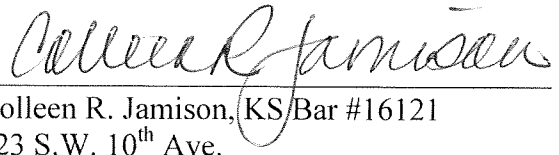
COMES NOW Nex-Tech Wireless, L.L.C. (hereafter “NTW”) and requests permission for NTW to, effective July 1, 2018, use the inverse percentage derived by NTW’s traffic study for its federal universal service fund filings to determine the intrastate revenues for its Kansas Universal Service Fund (“KUSF”) assessment. In support, NTW shows the Commission as follows:

1. In 2003, the Commission determined, in Docket No. 03-GIMT-923-GIT that “[a] wireless carrier may report revenue based on the FCC safe harbor rules or on a documented study accepted by the FCC” and has allowed other wireless carriers to use a traffic study to determine intrastate retail revenues for KUSF assessment purposes.
2. Pursuant to FCC requirements for the use of a traffic study in determining interstate retail revenues, NTW filed a copy of its traffic study with the FCC on April 30, 2018. See Attached Confidential Exhibit “A.” The results of the study will be used by NTW to report assessable interstate revenue to the FCC for FUSF assessment purposes.
3. Based on the traffic study NTW filed with the FCC, ██████% of NTW’s revenues are intrastate. Should this percentage change, NTW will notify the Commission as appropriate.
4. With this application, NTW also submits the affidavit of Jon Lightle, NTW’s President and CEO.

WHEREFORE, Nex-Tech Wireless, L.L.C. respectfully requests the Commission approve its company-specific traffic study and its use of the inverse of the federal percentage derived from that study for KUSF purposes.

Respectfully submitted,

JAMES M. CAPLINGER, CHTD.

A handwritten signature in cursive script, reading "Colleen R. Jamison". The signature is written in dark ink and is positioned above a horizontal line.

Colleen R. Jamison, KS Bar #16121  
823 S.W. 10<sup>th</sup> Ave.  
Topeka, KS 66612  
Ph: 785-232-0495  
Fax: 785-232-0724  
[colleen@caplinger.net](mailto:colleen@caplinger.net)

VERIFICATION

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF SHAWNEE    )

I, Colleen R. Jamison, of lawful age, being first duly sworn upon her oath state:

That she is an attorney for Nex-Tech Wireless, L.L.C., that she has read the above and foregoing Application, and upon information and belief, states that the matters therein appearing are true and correct.

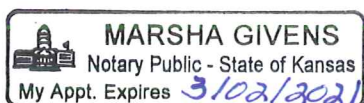
  
Colleen R. Jamison

SUBSCRIBED AND SWORN to before me this 8th day of May, 2018.

  
Notary Public

My Commission Expires:

March 2, 2021



**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was emailed, on this 8th day of May, 2018, to the following:

THOMAS J. CONNORS, Attorney at Law  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
tj.connors@curb.kansas.gov

TODD E. LOVE, ATTORNEY  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
t.love@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
D.NICKEL@CURB.KANSAS.GOV

SHONDA RABB  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
s.rabb@curb.kansas.gov

DELLA SMITH  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
d.smith@curb.kansas.gov

MARK DOTY  
GLEASON & DOTY CHTD  
401 S MAIN ST STE 10  
PO BOX 490  
OTTAWA, KS 66067-0490  
DOTY.MARK@GMAIL.COM

THOMAS E. GLEASON, ATTORNEY  
GLEASON & DOTY CHTD  
PO BOX 6  
LAWRENCE, KS 66049-0006  
gleason@sunflower.com

CARLY FIOLA, COMPLIANCE REPORTING SPECIALIST  
INTESERRA CONSULTING GROUP  
151 SOUTHHALL LANE  
SUITE 450  
MAITLAND, FL 32751  
cfiola@inteserra.com

KIMBERLY GEUDER, COMPLIANCE REPORTING SPECIALIST  
INTESERRA CONSULTING GROUP  
151 SOUTHHALL LANE  
SUITE 450  
MAITLAND, FL 32751  
KGEUDER@INTESERRA.COM

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
a.latif@kcc.ks.gov

OTTO NEWTON, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604  
O.NEWTON@KCC.KS.GOV

MARK E. CAPLINGER  
MARK E. CAPLINGER, P.A.  
7936 SW INDIAN WOODS PL  
TOPEKA, KS 66615-1421  
mark@caplingerlaw.net

BRUCE A. NEY, EXEC. DIR.-SENIOR LEGAL COUNSEL  
NEW CINGULAR WIRELESS PCS, LLC D/B/A AT&T MOBILITY  
816 CONGRESS AVE  
SUITE 1100  
AUSTIN, TX 78701-2471  
bn7429@att.com

RACHEL LIPMAN REIBER, ATTORNEY  
RACHEL LIPMAN REIBER LLC  
214 S CHESTNUT, SUITE 3  
OLATHE, KS 66061  
rlreiberlaw@gmail.com

DIANE C. BROWNING, ATTORNEY  
SPRINT SPECTRUM L.P.  
KSOPHN0314-3A459  
6450 SPRINT PKWY  
OVERLAND PARK, KS 66251-2400  
diane.c.browning@sprint.com

DAVID E. BENGTSON, ATTORNEY  
STINSON LEONARD STREET LLP  
1625 N WATERFRONT PKWY STE 300  
WICHITA, KS 67206  
david.bengtson@stinson.com

KEVIN K. ZARLING  
UNITED TELEPHONE CO. OF KANSAS D/B/A CENTURYLINK  
400 W 15TH ST STE 315  
AUSTIN, TX 78701-1647  
KEVIN.K.ZARLING@CENTURYLINK.COM

  
Colleen R. Jamison

**NON-CONFIDENTIAL EXHIBIT A**



8300 Greensboro Dr.  
Suite 1200  
Tysons, VA 22102

(703) 584-8678  
WWW.FCCLAW.COM



April 30, 2018

**VIA E-MAIL**

Form 499 Data Collection Agent  
c/o USAC  
Form499@usac.org

Re: Nex-Tech Wireless, LLC (Form 499 Filer ID 825456)  
Submission of Traffic Study for Reporting Telecommunications Revenues

To Whom It May Concern:

Nex-Tech Wireless, LLC ("NTW", "the Company") has completed a traffic study for use in reporting its end-user telecommunications revenues to USAC in its quarterly and annual Form 499 filings. The attached traffic study has been marked "**CONFIDENTIAL – NOT FOR PUBLIC INSPECTION.**"

Pursuant to the Instructions to the Telecommunications Reporting Worksheet, Form 499-A, the attached traffic study includes (1) an explanation of the sampling and estimation methods employed, and (2) an explanation as to why the study results in an accurate, unbiased estimate. NTW will retain all data underlying the traffic study as well as all documentation necessary to facilitate an audit, and NTW is prepared to make this data available to the Commission upon request.

NTW respectfully requests confidential treatment of certain information provided in its traffic study because this information is competitively sensitive and its disclosure would have a negative competitive impact on NTW were it made publicly available. Such information would not ordinarily be made available to the public, and should be afforded confidential treatment under 47 C.F.R. §§ 0.457 and 0.459.

47.C.F.R. § 0.457

Specific information in the traffic study is confidential and proprietary to NTW as "trade secrets and commercial or financial information" under Section 47 C.F.R. § 0.457(d). Disclosure of such information to the public would risk revealing company-sensitive proprietary information in connection with NTW's ongoing business and operations.

47 C.F.R. § 0.459

Specific information in the traffic study is also subject to protection under 47 C.F.R. § 0.459, as demonstrated below.

Information for which confidential treatment is sought

NTW requests that specific information in the traffic study be treated on a confidential basis under Exemption 4 of the Freedom of Information Act. Confidential information in the traffic study includes the relative proportion of interstate and intrastate traffic, the manner of determining interstate vs. intrastate minutes, and the inclusion or exclusion of certain types of minutes from the traffic study. All of the foregoing is competitively sensitive information that NTW maintains as confidential and is not normally made available to the public. Release of the information would have a substantial negative impact on NTW since it would provide competitors with commercially sensitive information about the nature and makeup of the company's telecommunications traffic and revenues.

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The information in question is competitively sensitive information which is not normally released to the public as such release would have a substantial negative competitive impact on NTW.

Degree to which the information concerns a service that is subject to competition and manner in which disclosure of the information could result in substantial harm

The release of this confidential and proprietary information would cause NTW competitive harm by allowing its competitors to become aware of sensitive proprietary information regarding the operation of NTW's business at a level of detail not currently available to the public.

Measures taken by NTW to prevent unauthorized disclosure and availability of the information to the public and extent of any previous disclosures of the information to third parties

NTW has treated and continues to treat the non-public information disclosed in this traffic study as confidential and has protected it from public disclosure to parties outside of the company.

Justification of the period during which NTW asserts that the material should not be available for public disclosure

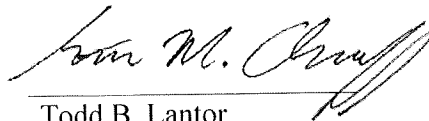
NTW cannot determine at this time any date on which this information should not be considered confidential.

Other information NTW believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission decisions, the information in question should be withheld from public disclosure.

Please contact the undersigned if any questions arise concerning the above-referenced enclosures or if you require any additional information.

Sincerely,



Todd B. Lantor  
Steven M. Chernoff  
LUKAS, LAFURIA, GUTIERREZ & SACHS, LLP  
8300 Greensboro Drive, Suite 1200  
Tysons, VA 22102  
(703) 584-8669

Attorneys for Nex-Tech Wireless, LLC

April 30, 2018

Nex-Tex Wireless, LLC  
Form 499 Filer ID 825456  
April 30, 2018

adopting the 37.1% wireless safe harbor. The data was validated using additional production and engineering reports.

Incollect roaming minutes billed to NTW's end users were added to the MOU report as intrastate or interstate minutes, depending on the nature of the calls. 411 calls were considered intrastate. Additionally, 1-800 calls were considered as interstate per industry practices.

Guidance in the development of the report was provided by experts, including Lukas, LaFuria, Gutierrez & Sachs, LLP.

### **III. Determining Interstate vs. Intrastate**

The following prioritized criteria determine which usage records are defined as interstate and which are intrastate:

1. NTW has dedicated circuits in place to ILECs and RBOCs that only terminate calls within the state of Kansas.
2. Total minutes of use were calculated by summing all non-toll MOUs, mobile to land, land to mobile and mobile to mobile (since subscribers are billed as such). NTW has interconnection with two long distance providers.

### **IV. Results**

The results of NTW's traffic study show that 25.8% of its Covered MOUs for the first three months of 2018 were interstate. NTW will continue to update its traffic study at least once annually. Underlying data will be retained in accordance with applicable FCC rules and orders.

Nex-Tex Wireless, LLC  
Form 499 Filer ID 825456  
April 30, 2018

Should you have any questions, or require further information, please contact the undersigned at (785) 621-3600.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Lightle". The signature is fluid and cursive, with the first name "John" being the most prominent.

John Lightle  
President & CEO

**NON-CONFIDENTIAL AFFIDAVIT OF JON LIGHTLE**

**BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

In the Matter of the Investigation to	)	
Determine the Assessment Rate for the	)	
Twenty-Second Year of the Kansas	)	Docket No. 18-GIMT-084-GIT
Universal Service Fund, Effective	)	
March 1, 2018.	)	

**NON-CONFIDENTIAL AFFIDAVIT OF JON LIGHTLE  
ON BEHALF OF NEX-TECH WIRELESS, L.L.C.**

I, Jon Lightle, being of lawful age and duly sworn, state as follows:

1. I am employed by Nex-Tech Wireless, L.L.C. ("NTW") as President and CEO.

In this capacity, I am responsible for reporting and remittances for NTW to the Kansas Universal Service Fund ("KUSF").

2. NTW has requested the Commission to be permitted to use a company-specific traffic study for KUSF reporting and remitting purposes. NTW provided this traffic study to the FCC on April 30, 2018, and will be using this traffic study for determining interstate revenues subject to the federal universal service fund assessment. By this application, NTW has requested the Commission to be permitted to use the inverse of the interstate study percentage for intrastate, or KUSF, assessment purposes, thereby assuring that no revenues are double assessed.

3. NTW's traffic study is based on actual call origination and termination minutes of use ("MOU") data obtained from NTW's call detail records, which NTW classifies as intrastate, interstate, or international. NTW derives the percentage of interstate/international MOU by dividing the number of interstate and international MOU into total AMOU. This percentage is accepted by the FCC for FUSF reporting purposes.

4. NTW uses the inverse of the federal percentage derived from this traffic study to calculate the percentage for KUSF reporting purposes.

5. Beginning July 1, 2018, NTW will use the percentages derived from the traffic study to calculate interstate revenue subject to federal universal service fund assessment at [REDACTED]%. Therefore, and also beginning July 1, 2018, NTW will use the inverse of that percentage to calculate intrastate revenue subject to the Kansas Universal Service Fund assessment at [REDACTED]%.

WHEREFORE AFFIANT SAYETH NAUGHT.

Pursuant to K.S.A. 53-601, I hereby declare under penalty of perjury that the foregoing is true and correct. Executed on May 7, 2018.

  
\_\_\_\_\_  
Jon Lightle, Nex-Tech Wireless, L.L.C.  
President and CEO